

ORDINANCE NO. 2013-_____

**AN ORDINANCE TO AMEND THE TOWN CODE, CHAPTER 220, ENTITLED
“ZONING,” REGARDING ANTENNAS, TOWERS AND DISHES AND REGARDING
PENALTIES.**

WHEREAS, Section 29(a)(7) of the Town Charter of the Town of Milton vests power in the Town Council to define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health, welfare; or the health and capacity of eco-systems that support the natural areas of the town; and

WHEREAS, the Charter of the Town of Milton vests power in the Town Council to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material, and generally to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22 of the Delaware Code; and

WHEREAS, the Town Council of the Town of Milton has previously found it necessary for the aforementioned purposes to enact a zoning ordinance, codified as Chapter 220 of the Town Code; and

WHEREAS, pursuant to Chapter 220, the Town Council of the Town of Milton may, from time to time, on its own motion or on petition or upon recommendation by the Planning and Zoning Commission, amend, supplement or change the boundaries of the districts or the zoning regulations after public notice and hearing; and

WHEREAS, Council referred the matter to the Planning and Zoning Commission; and

WHEREAS, the Planning and Zoning Commission held a duly noticed hearing on _____ and voted _____ in the Advisory Report received by Town Council; and

WHEREAS, The Town Council held a public hearing on _____, as scheduled by prior resolution, with proper notice by publication as required by Town Code Section 220-101; and

WHEREAS, The Town Council seeks to protect residential neighborhood and air space appearances and to prevent the negative aesthetic impact and resulting negative effect on property values;

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Milton:

Section 1. Amend § 220-21K of the Milton Town Code with additions shown by underlining and deletions shown by strikethrough as follows:

K. Penalty.

- (1) Where a property owner has not obtained a building permit prior to commencing construction on a property:
 - (a) The property owner shall immediately make such application and pay any fees required with that application. In making the application, the property owner shall provide the required information as specified in § 220-21G.
 - ~~(b) The property owner of record shall pay a fine designated on the Town of Milton Fee Schedule.~~
 - ~~(c) The property owner shall appear before the Historic Preservation Commission at its next scheduled meeting for the application to be addressed.~~
- (2) Where a property owner has obtained a building permit and the construction being done does not comply with what was previously approved by the Historic Preservation Commission:
 - (a) The property owner may choose to alter the construction so as to be in compliance with what was previously approved by the Historic Preservation Commission and with the issuance of the building permit;
 - (b) If the property owner does not alter the construction so as to be in compliance with what was previously approved by the Historic Preservation Commission, the property owner shall immediately make application for a building permit listing such changes in construction;
 - (c) The property owner shall appear before the Historic Preservation Commission at its next scheduled meeting to seek approval for these changes to the previously approved construction; ~~and~~
 - ~~(d) The property owner shall pay a fine as designated on the Town of Milton Fee Schedule.~~
- (3) Where a property owner demolishes a structure without first obtaining a permit for such a demolition:
 - (a) The property owner shall appear before the Historic Preservation Commission at its next scheduled meeting for that matter to be addressed;
 - (b) The property owner shall pay a minimum fine of \$100,000, ~~or more, based upon the Fee Schedule established by the Town Council;~~
 - (c) No building permit shall be issued for this property for a period from one year from the date of the demolition; and
 - (d) The property owner shall cause the site to be cleaned up and secured to the satisfaction of the Town.

Section 2. Amend § 220-52 of the Milton Town Code with additions shown by underlining as follows:

§ 220-52. Antennas, towers, and satellite dishes.

- A. No antenna, tower, microwave dish or satellite dish used for any other purpose than that of personal use of the structure will be permitted in any district. Any such antenna, tower, microwave dish or satellite dish shall only be located in rear yards or, if not visible from the street level along the entirety of the front lot line, in side yards. Any property owner, tenant, or user shall make all reasonable efforts to limit or eliminate the visual impact on the adjoining properties, such as screening by landscaping.

- B. Any apparatus used for the receipt or transmittal of UHF, VHF, HF or any other radio, video or microwave signal for commercial purposes will be reviewed on a case-by-case basis and approved by the Planning and Zoning Commission on an as-needed basis where it would be a benefit to the community of the Town of Milton residents.
- C. If there is any question as to the use, type, frequency or any other signal, a site plan review will be required by the Planning and Zoning Commission.

Section 3. This Ordinance shall become effective on the date of its passage by Town Council.

I, MARION JONES, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the ____ day of _____, **2013**, following a duly noticed public hearing, at which a quorum was present and voting throughout and that the same is still in full force and effect.

MAYOR

SYNOPSIS

This Ordinance amends the Town Code's zoning chapter. Section 1 removes references to the Town Fee Schedule for fines for violations of the HP-OD District zoning requirements. Thus, except for expressly providing a \$100,000 fine for demolishing a structure without a permit, enforcement would fall within the protocol of Article XIII.

The purpose of the Ordinance's Section 2 is to mandate the location and placement of antennas and satellite dishes for personal use (i.e., non-commercial use) in the interest of protecting residential neighborhood and air space appearances and to prevent the negative aesthetic impact and resulting negative effect on property values. The ordinance employs Chapter 220's existing definitions under Section 220-6, existing nonconforming structure provisions in Article IX, and existing administration provisions in Article XIII for enforcement.